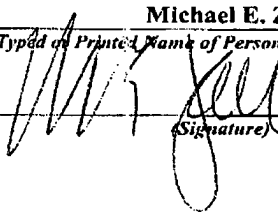


CERTIFICATE OF TRANSMISSION BY FACSIMILE (37 CFR 1.8)			Docket No. 3.0-029C	
Applicant(s): Tsuyoshi Nishiwaki				
Application No. 10/780,257	Filing Date 02/18/2004	Examiner Stashick, Anthony D.	Group Art Unit 3728	
Invention: MIDSOLE INCLUDING CUSHIONING STRUCTURE				
RECEIVED CENTRAL FAX CENTER NOV 02 2004				
<p>I hereby certify that this <u>Response to Office Action of October 15, 2004</u> (Identify type of correspondence)</p> <p>is being facsimile transmitted to the United States Patent and Trademark Office (Fax. No. <u>703-872-9306</u>)</p> <p>on <u>November 02, 2004</u> (Date)</p> <p style="text-align: right;"><u>Michael E. Zall</u> (Typed or Printed Name of Person Signing Certificate)</p> <p style="text-align: right;"> (Signature)</p> <p style="text-align: center;">Note: Each paper must have its own certificate of mailing.</p>				

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re application of: Tsuyoshi Nishiwaki et al.****Serial No.: 10/780,257****Filed: 02/18/2004****For: MIDSOLE INCLUDING CUSHIONING STRUCTURE****Examiner: Stashick, Anthony****Art Unit: 3728****RESPONSE****Mail Stop Amendment**

Commissioner for Patents

PO Box 1450

Alexandria, VA 22313-1450

Sir:

This is responsive to the Office Action of October 15, 2004 to which response is due by November 15, 2004.

The Office Action indicates that Claims 1-12 are pending in the application and requires an election in this application between Group I, Claims 1-4, 10-12 and Group II, Claims 5-9. Attached please find a copy of a Preliminary Amendment that was filed with this application deleting claims 5-9, 11 and 12. Please enter this amendment. This renders the election requirement moot.


Additionally enclosed, in case this has not been received, is an Amendment to the Related Applications section of the application. This was mailed to the Office on June 20, 2004.

If the Examiner has any questions or comments, please call the undersigned immediately.

Dated: November 2, 2004

Respectfully Submitted,

Michael E. Zall


Attorney for Applicant

Reg. No. 27,023

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Tsuyoshi Nishiwaki et al.
Serial No.: CONTINUATION OF 10/132,013
Filed:
For: **MIDSOLE INCLUDING CUSHIONING STRUCTURE**

Examiner: Stashick, Anthony
Art Unit: 3728

PRELIMINARY AMENDMENT
DECLARATION UNDER 37 CFR 1.132

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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Sir:

In the Application:

Page 1, after the Title insert the following:

-- *Related Applications:*

This application is a continuation application of US Serial Number 10/132,013 filed on 04/25/2002 which claims the foreign priority of the following Japanese applications: Serial Number 2001-141157 filed on May 11, 2001, 2001-198609 filed on June 29, 2001 and 2002-63522 filed on April 8, 2002. The entire disclosures of all of these applications are incorporated herein by reference. --

In the Claims:

Delete claims 5-9, 11 and 12 from in the application as filed herewith prior to calculating the government filing fee:

1. (Original) A midsole including a cushioning structure, which is provided between an outer sole and an upper and is suitable for absorbing a shock of landing, wherein:
the cushioning structure comprises a thick plate-shaped or column-shaped cushioning portion;

a plurality of grooves is formed on an outer peripheral surface of the cushioning portion;
the respective grooves are helically formed around a substantially vertical axial line;
the respective grooves are arranged substantially parallel with each other; and
a range in which each of the grooves is formed is larger than a range of 15 degrees around the axial line and smaller than a range of 180 degrees around the axial line.

2. (Original) A midsole including a cushioning structure according to claim 1, wherein a lead angle between the groove and a horizontal plane is set within a range of 35 degrees to 60 degrees.

Page 1 of 3

COPY

3. (Original) A midsole including a cushioning structure according to claim 1, wherein: the respective grooves are provided to be continuous from an upper end of the cushioning portion to a lower end of the cushioning portion; and the lead angle is set to be substantially constant from the upper end to the lower end.

4. (Original) A midsole including a cushioning structure according to claim 1, wherein the outer peripheral surface of the cushioning portion is formed to be taper-shaped.

5. DELETED.

6. DELETED.

7. DELETED.

8. DELETED.

9. DELETED.

10. (Original) A midsole having a cushioning structure, which is provided between an outer sole and an upper and is suitable for absorbing a shock of landing, comprising:

a midsole body defining a cavity; and

a cushioning part fitted in the cavity, wherein:

the cushioning part is formed of elastomer;

Young modulus of a member constituting the cushioning part is set to be a value smaller than Young modulus of a member constituting the midsole body;

the cushioning part is formed into a plate shape having an upper surface and a lower surface;

a plurality of helical grooves and/or convex portions is formed on at least one of the upper surface and the lower surface of the cushioning part; and

a thickness of the cushioning part is gradually changed along the grooves and/or the convex portions.

11. DELETED.

12. DELETED.

REMARKS

Applicant has added a Related Applications section to clearly claim the priority rights in the parent application (USSN 10/132,013) and the indicated filed Japanese applications. Certified copies of these Japanese applications were filed in the parent application.

Applicant has deleted Claims 5-9, 11 and 12. The subject matter of these claims is covered in Applicant's parent application. The remaining claims, 1-4 and 10 remain in this continuing application. Applicant also encloses copies of the Notice of References Cited (PTO-892) and Information Disclosure Citations (PTO A820) of record in the parent application.

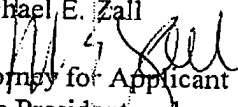
The Office Action of October 06, 2004 in the parent application rejected the claims now presented herein (Claims 1-4 and 10) under 35 USC 102(a) in view of Reference Q, ASICS Spring 2002 Footwear Catalog, page 1, indicated as published on May 16, 2001. This cited ASICS Catalog was published by ASICS TIGER Corporation. ASICS Tiger Corporation, for which the undersigned is Vice President and General Counsel, is a wholly owned subsidiary of ASICS Corporation, the corporation to which this application has been assigned (see Fee/Frame 012840/0943). Thus, the cited reference discloses subject matter derived, originated and obtained from the applicant rather than invented by another. Thus, the cited reference can not be used.

Applicant respectfully requests that this application pass to issuance.

All statements made herein made of my own knowledge are true and all statements made on information and belief are believed to be true; and further the statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Dated: February 14, 2004

Respectfully Submitted,
Michael E. Zall


Attorney for Applicant
Vice President and
General Counsel for ASICS TIGER Corporation
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Tsuyoshi Nishiwaki et al.

Serial No.: 10/780,257

Filed: 02/18/2004

For: MIDSOLE INCLUDING CUSHIONING STRUCTURE

Examiner: Stashick, Anthony

Art Unit: 3728

AMENDMENT

Mail Stop Amendment
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Please Amend the Related Applications section to read

-- *Related Applications:*

This application is a continuation application of US Serial Number 10/132,013 filed on 04/25/2002 which claims the foreign priority of Japanese application Serial Number 2001-141157 filed on May 11, 2001. The entire disclosures of all of these applications are incorporated herein by reference. --

REMARKS

Applicant, as indicated in the Declaration and Power of Attorney filed herein, claims priority of Prior Foreign Japanese application 2001-141157 filed on May 11, 2001. Applicant is **not** claiming priority of the other two applications listed in the Declaration and Power of Attorney, i.e., Japanese Applications 2001-198609 filed on June 29, 2001 and 2002-63552 filed on March 08, 2002.

Dated: June 20, 2004

Respectfully Submitted,
Michael T. Zall

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